of such power points to the presumption that it will be exercised. The indications are that the Supreme Court will not soon go to such an extreme. Meanwhile the labor union, as such, is not in violation of the Anti-Trust Law.

In summary, three facts are to be noted in regard to the relations of the labor unions and the federal Anti-Trust Law. First, nothing in these cases indicates that the union itself is illegal, but the inference is that through the union organization and agencies a conspiracy or an action in restraint of trade can readily be fostered. Second, in the application of the Sherman Anti-Trust Act to labor unions in the two groups of enterprises, manufacturing and transportation—productive and distributive—the courts have made it applicable to any union, whether intrastate or interstate, which directly and specifically affects interstate commerce to restrain it. Third, the logical and consistent holding, by the courts, to the general principles of interpretation of the Sherman Act, already outlined, allowed of no other result in these labor cases.

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WASHINGTON NOTES

The New Railroad Programme
Control of Capitalization, etc.
Federal Incorporation
Readjusting Circulation Taxes
Public Land Legislation
A Study of National Banks

The first positive indication of the economic policy of President Taft has been given in a special message to Congress, under date of January 7, in which are discussed the questions of railroad control and federal incorporation (*House Doc. 484*, 61st Cong., 2d Sess.). This event is the more notable because of the failure of the President in his first annual message, presented at the opening of Congress, to afford definite indications of his ideas upon the more controverted issues of national politics; and because of the subsequent doubt and hesitation which have surrounded the development of the administration's plans. As now presented, the scheme is of decidedly radical character, transcending, in its application to

the railroads as corporations, the ideas which had been urged by President Roosevelt during the latter part of his administration. President Taft's plan as to railroads has taken form in a bill drawn by the Attorney-General of the United States and presented on January 10 in the lower chamber by Representative Townsend, of Michigan. This bill is the product of elaborate and long-continued study carried on by a committee including not only the Attorney-General but also the Solicitor-General of the United States, the chairman of the Interstate Commerce Commission, and Mr. Townsend, with several others. The ideas presented in the bill offered by Mr. Townsend follow closely the suggestions of the message, and are about as follows: (1) The establishment of a court composed of five judges to be known as the United States Court of Commerce and to have general jurisdiction in all railroad cases. (2) The amendment of the Interstate Commerce Act in such a way as to provide for vesting the Interstate Commerce Commission with authority to investigate any increase in rates upon its own initiative and to suspend a rate increase for a period not exceeding sixty days beyond the date when such rate will take effect, pending investigation. (3) The granting to the Interstate Commerce Commission of power to prescribe regulations governing the routing of freight, shippers being granted the right to choose between two or more established through routes to which the initial carrier may be a party. (4) The separation of power over proceedings affecting orders and decrees of the Interstate Commerce Commission, and the placing of it under the charge of an Assistant Attorney-General to be directed by the Attorney-General of the United States. (5) A provision of law requiring a carrier upon written request of any shipper to quote in writing the rate or charge applicable to the proposed shipment under penalty of $250 fine for refusal or omission or error in quoting such rate.

Joined with the recommendations for the amendment of the Interstate Commerce law and for changes in the powers of the Interstate Commerce Commission over railroads is found a series of recommendations which lie on the border line between railroad legislation and corporation legislation or regulation. These may be grouped as follows: (1) Legislation legalizing agreements between carriers with respect to rates subject to the general control of the Interstate Commerce Commission, the agreements being allowed to specify the

classifications of freight and the rates, fares, and charges which they agree to establish; copies of such agreements to be promptly filed with the Commission and to be subject to the right of the carriers to withdraw from or cancel such agreements if they desire. (2) The amendment of the existing law so as to prohibit every railroad company from acquiring interests of any kind in capital stock, and from purchasing or leasing any railroad, of any other corporation which competes with it for business under the Interstate Commerce Act; provided that this shall not prevent any corporation which at the present time owns not less than 50 per cent. of the outstanding stock of any railroad company from acquiring additional stock. (3) The enactment of legislation forbidding the issue of capital stock by railroad companies at less than the par value of such stock, such par value to be paid up in money, or the issue of any bonds or other obligations except short-time notes save upon the payment of the par or reasonable market value of such bonds or obligations, the Interstate Commerce Commission to have general control over the issue of all securities of whatever kind. (4) The granting of power to the Interstate Commerce Commission to determine upon the uniform construction of safety appliances for use on railway trains. (5) The granting of a right to bring suit under the Interstate Commerce Employers' Liability Act at points other than those located within the jurisdiction of the district in which the carrier's home office is situated. These changes would, it is believed, result in making the railroad regulation laws passed under the administration of President Roosevelt attain their object much more nearly than they now do and would remove much of the antagonism existing among shippers toward the present administration of the Interstate Commerce Act. The measures proposed practically accept the ideas urged by President Roosevelt in regard to railroad control and develop the system then established toward its logical conclusion. Of the recommendations, probably the only one of decidedly novel character is that which calls for an Interstate Commerce Court with carefully defined jurisdiction separating railroad cases, as described, from the general jurisdiction of the ordinary federal courts.

While President Taft's recommendations with respect to railroad control, to the question of combinations, and to that of the labor relationships of carriers are not novel, and are of interest

chiefly in their details, the same cannot be said of the suggested changes in regard to the management of what is called "the trust problem." President Taft has given a significant review of the present condition of the law under the decisions of the Supreme Court as rendered in cases involving the Sherman Anti-Trust Law. Perhaps the most striking fact about the message is that it takes a definite position in favor of the maintenance of the present Anti-Trust Law. This is in direct opposition to the notion which has been generally put forward for some time past that the law was obsolete and called for total repeal or drastic change. The President now says that "The value of a statute which is rendered more and more certain in its meaning by a series of decisions of the Supreme Court furnishes a strong reason for leaving the act as it is, to accomplish its useful purpose, even though if it were being newly enacted useful suggestions as to change of phrase might be made." Mr. Taft, moreover, rejects the suggestion that the law should be amended by adding the word "reasonable" as a qualification of the phrase "contracts in restraint of trade," on the ground that this is to put into the hands of the courts a power impossible to exercise on any consistent principle which will insure the uniformity of decision essential to just judgment. His own idea of what is needed in connection with the control of trusts is seen in the suggestion that there be enacted "a general law providing for the formation of corporations to engage in trade and commerce among the states and with foreign nations, protecting them from undue interference by the states and regulating their activities so as to prevent the recurrence, under national auspices, of those abuses which have arisen under state control." The law desired is to permit the future issue of stock only for money or for property at a fair valuation; is to provide for a plan subjecting the "real and personal property only of such corporations" to the same taxation as is imposed by the states within which they are situated upon other similar property; and is to prohibit the corporations thus organized from acquiring and holding stock in other corporations except under special conditions. This plan, says the President, would not result in furnishing a refuge to trusts but would retain the beneficial results of combination while subjecting such combinations to appropriate control under federal charters. The alternatives then remaining to the worst offenders against the Anti-Trust Law would be to resolve themselves into their component parts or to continue business under some secret

trust, incurring the penalties of the criminal law thereby, or to reorganize in good faith under the federal law suggested.

An interesting situation has arisen at the Treasury Department in consequence of the failure of Congress to enact proper bond legislation at the time when the tariff bill was being considered last summer. In the tariff bill as then passed, provision was made for the issue of $290,569,000 of Panama bonds at a rate not exceeding 3 per cent., while the Secretary of the Treasury was further authorized to issue 3 per cent. temporary certificates of indebtedness running not more than one year to an amount not exceeding in the aggregate $200,000,000. The old Panama bonds already outstanding were issued at 2 per cent. and had been largely used by the banks for the purpose of securing their note circulation or of protecting public deposits. The notes issued upon the security of such bonds have been subject to a circulation tax of one-half of 1 per cent., with the provision that any other bonds used as security for circulation should bear a tax of 1 per cent. per annum. Recent decline in the surplus has released a considerable number of 2 per cent. bonds within the past few months, and in consequence the twos have fallen at times very slightly below par. Conditions have now become such that the borrowing of money will shortly be necessary in order to meet the running expenses of the government, while the amount due to the general fund of the Treasury from Panama Canal account is about $100,000,000. Secretary MacVeagh is thus confronted with a difficult situation. Should he issue 2 per cent. bonds they probably could not be floated at par, and would unquestionably operate to reduce the quotation of the already existing 2 per cent. bonds in the open market. Under the law, he could issue such bonds at 3 per cent., but they would then be subject to a tax of 1 per cent., so that they would net the banks which desired to issue notes 2 per cent., as against the 1 1-2 per cent. which is netted by the Panama bonds now outstanding. This would probably lead to the substitution of such 3 per cent. bonds for the old 2 per cent. Panamas and would thus depreciate the latter on the market. Secretary MacVeagh is, therefore, desirous that Congress shall establish circulation taxes on all new bonds at a rate which will net only 1 1-2 per cent. when they are used for circulation purposes, thus placing them upon an equality with the old twos in this respect. His plan would then be to go on with new bond issues, probably

up to $100,000,000, at 3 per cent., thus placing the issue upon a distinct investment basis. In case such bonds should seem to depress the market for existing securities he would buy in old 2 per cent. bonds with the proceeds. This would be the beginning of a process of refunding the public debt upon an investment rate and would effectually break with the present system under which the issue of national bank notes is stimulated by the conditions under which government bonds are issued. The proposed plan would be a very desirable step toward currency reform. Politically the interest in the present situation is seen in the fact that Senator Aldrich, the chairman of the National Monetary Commission, is taking ground against the reformation of the circulation taxes after the system advocated by Secretary MacVeagh. His position is said to be assumed on the ground that the enactment of the desired legislation would weaken the power of the Monetary Commission to secure the enactment of desired legislation on currency and banking which, it is urged, should be of complete and general character.

President Taft has responded to the call of Congress by sending to it the papers in the so-called Ballinger-Pinchot controversy (*Sen. Doc. 248*, 61st Cong., 2d sess.). These papers include the so-called "Glavis charges," which are contained in a document submitted to the President last summer and held nominally confidential until now. These charges are directed against Secretary of the Interior Ballinger and are primarily of political interest. However, the document, especially when taken in conjunction with the accompanying papers, constitutes a valuable description of existing conditions under the public land legislation of the United States. These conditions have been indistinctly recognized for a long time, but the question is now clearly put whether it will not be necessary for the government (1) to cease its practice of allowing mineral rights of known value to pass into private ownership upon a purely nominal payment; (2) to take further steps designed to prohibit the combination of individual claims into large tracts of land containing valuable minerals (now more or less directly secured by corporations which take them over from individuals who have secured their claims with the intention of turning them over to the monopolistic combinations); or (3) to adopt a plan for the leasing of such mineral rights, under suitable conditions, for terms of years

in any desired quantity. These points will now receive at the hands of Congress more or less careful investigation in the land inquiry about to be conducted through a special joint committee of the Senate and House. The conditions exhibited in the Glavis charges will furnish the typical instance upon which discussion of the general problem is likely to be based. The document is of particular interest on that account.

Results of an elaborate study of banking resources in the United States are given by the National Monetary Commission in an exhaustive series of tables now published as a congressional document (*Sen. Doc. No. 225*, 61st Cong., 2d Sess.). These tables were obtained through an inquiry conducted by the Comptroller of the Currency during the last spring and include returns from 22,491 National, State, and private banks and loan and trust companies. The statistics show of course the usual data with reference to deposits, notes, loans of various classes, interbank deposits and the like; but their value lies in the extremely detailed and minute classification of figures which have heretofore been usually given as aggregates. There is a specially interesting group of tabulations, showing the detailed facts as to bank deposits and depositors. Much attention is also given to the various classes of loans and extensions of credit and to the actual holdings of money and currency. The document is the first serious publication which has been placed before the public by the National Monetary Commission and, it is expected, will shortly be followed, in rapid succession, by the others which have been announced.